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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE NATHANAEL COUSINS, MAGISTRATE JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	NO. 5:19-cr-00377-WHA
)	
ANTHONY SCOTT LEVANDOWSKI,)	
)	
Defendant.)	San Jose, California
_____)	Wednesday, September 4, 2019

TRANSCRIPT OF OFFICIAL ELECTRONIC SOUND RECORDING
OF PROCEEDINGS

FTR 11:10 a.m. - 11:49 a.m. = 39 minutes

APPEARANCES:

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BY: **KATHERINE WAWRZYNIAK**
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Assistant United States Attorneys

For Defendant: Ramsey & Ehrlich, LLP
803 Hearst Avenue
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BY: **ISMAIL JOMO RAMSEY, ESQ.**
MILES F. EHRLICH, ESQ.

Also Present: ANTHONY GRANADOS
United States Pretrial Services

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1 Wednesday, September 4, 2019

2 11:10 a.m.

3 (Defendant present in court.)

4 P R O C E E D I N G S

5 **THE CLERK:** Calling criminal 19-0377, United States
6 versus Anthony Scott Levandowski.

7 **MS. WAWRZYNIAK:** Good morning, your Honor.
8 Catherine Wawrzyniak and Andrew Dawson for the United States.

9 **THE COURT:** Good morning.

10 **MR. RAMSEY:** Good morning, your Honor. Ismail
11 Ramsey and Miles Ehrlich of Ramsey & Ehrlich on behalf of
12 Mr. Levandowski, who's present and out of custody.

13 **THE COURT:** Good morning to you all.

14 **MR. EHRLICH:** Good morning.

15 **PRETRIAL SERVICES OFFICER:** Good morning, your
16 Honor. Anthony Granados, United States Pretrial.

17 **THE COURT:** Good morning. All right, I think we
18 have three procedural things to address today, by my list. One
19 is the appointment of counsel, and that last week defense
20 counsel specially appeared just to check in on the
21 representation issue.

22 Second is to assess the post-bail report from Pretrial
23 Services recommending a modification of release conditions and
24 to consider any additional information and arguments that the
25 parties have about the conditions of release.

1 And then third is just to discuss the procedures going
2 forward in the case, next dates in the case. The case was
3 reassigned to Judge Alsup in San Francisco yesterday. We need
4 to set a date before Judge Alsup for the initial appearance
5 there, and also to assess if that change in venue to San
6 Francisco suggests that we should have a different magistrate
7 judge assigned for the pretrial proceedings.

8 I'll take your input on that. My instinct is we may not
9 have many more pretrial proceedings, so there's not much to
10 transfer to a different judge, but if you think it would be
11 more efficient to have a different judge in San Francisco work
12 on it, we could seek to have someone assigned. I have not
13 conferred yet with Judge Alsup on that topic. He may have an
14 opinion about it, but we'll proceed here as we began the
15 hearing last week, on the detention and release issues.

16 I anticipate that on the question of criminal discovery,
17 which in San Jose is assigned to a magistrate judge, in San
18 Francisco Judge Alsup will want to have a first opinion about
19 whether there's going to be criminal discovery assigned to
20 someone different than Judge Alsup; but my understanding his
21 usual practice is to keep that himself, not assign, but that
22 will be a decision that he will make. For the moment, that
23 will just be an open issue that will have to be discussed at a
24 later appearance.

25 So that's my list of the procedural things for today. You

1 may have others, but let me start at the top, back on the issue
2 of counsel. Any change or requests about the appointment of
3 counsel issue?

4 **MR. RAMSEY:** No, no change, your Honor. I'm sorry,
5 I should have made clear that we are still specially appearing
6 on behalf of bail. We are in the process of still trying to
7 finalize the retention. We think that will happen. I think in
8 a few weeks' time -- I'm right now getting ahead of myself in
9 terms of the next dates, but the date that we were going to
10 request was going to be the 24th -- 25th, excuse me, on
11 Wednesday at 11, to come back to deal with the I.D. of counsel
12 issues. We think we should have it finalized by then.

13 **THE COURT:** And you're referring to a date to return
14 here for a further appearance.

15 **MR. RAMSEY:** Yes, your Honor.

16 **THE COURT:** And I'll get back to you on that date.
17 As far as the first date before Judge Alsup, did you have one
18 in mind?

19 **MR. RAMSEY:** We did not. It depends on whether the
20 Court wanted us to have finalized the idea of counsel, the
21 general appearance, before we went to Judge Alsup or not.

22 **THE COURT:** I don't -- from my point of view,
23 I don't think there's any reason to delay getting before him.
24 He may have some structural issues of discovery and things
25 which he wants to set. So my encouragement would be to get on

1 his calendar in the near future.

2 **MR. RAMSEY:** So we have not conferred with the U.S.
3 Attorney's Office, but I think the 24th, that Tuesday
4 afternoon, would work for us. I note Judge Alsup might have a
5 fairly full calendar that day but, you know, I'm not sure
6 whether he wants us to come in that quickly or not, but that's
7 what we'd recommend.

8 **THE COURT:** My deputy is checking on that issue.
9 I will be serving in San Diego the week of the 23rd through the
10 27th, so I'm not available on the 25th.

11 **MR. RAMSEY:** We could do the following week, then,
12 your Honor.

13 **THE COURT:** We could do the following week. So any
14 day the following week we're available, at 1:30.

15 **MR. RAMSEY:** The 2nd of October.

16 **THE COURT:** Yeah. So we can set a further
17 appearance here October 2nd at 1:30 p.m.

18 **MR. RAMSEY:** Thank you, your Honor.

19 **MR. EHRLICH:** At 11?

20 **MR. RAMSEY:** Yes, at 11.

21 **MS. WAWRZYNIAK:** Sorry, did you say 1:30, your
22 Honor?

23 **THE COURT:** 1:30 on October 2nd.

24 **MR. RAMSEY:** Oh, 1:30. Thank you.

25 **THE COURT:** I'll be back on general criminal duty at

1 that time. All right, so we'll continue the special appearance
2 of counsel with a next appearance on the --

3 **MR. RAMSEY:** Yeah, your Honor --

4 **THE COURT:** Yes.

5 **MR. RAMSEY:** -- if you're going to be on duty
6 that -- that's Wednesday.

7 **THE COURT:** That is Wednesday.

8 **MR. RAMSEY:** Yeah, that's fine. That works best.
9 Thank you.

10 **THE COURT:** If that works for you.

11 **MR. RAMSEY:** Thank you.

12 **THE COURT:** All right, and if we have any further
13 conditions of release issues, we can use that same date for a
14 follow-up on those. So let's turn to that next.

15 The Court did receive a post-bail report from Pretrial
16 Services. Attached to it is a document identified as Draft
17 Balance Sheet dated August 28th, 2019. Those two documents
18 together have a variety of financial information about
19 Mr. Levandowski.

20 The Court last week released Mr. Levandowski on a
21 combination of conditions with the concern raised by the
22 government of risk of nonappearance, and the conditions are
23 motivated to mitigate those risks. There's been no new
24 information provided about danger to the community.

25 The conclusion of the recommendation is that the

1 conditions imposed are appropriate, including the electronic
2 monitoring, but it is recommended that the amount of the bond
3 be increased to \$10 million, and that's secured by real
4 property or cash.

5 I don't know if the parties have yet had an opportunity to
6 evaluate that recommendation, but I will consider your -- any
7 additional information and recommendations that you have about
8 bail modifications, starting on the defense side.

9 **MR. RAMSEY:** Yes, your Honor. A couple things.
10 One, I want to make sure that -- I understand the information
11 you have. So I understand you got the balance sheet. I'm not
12 sure whether the Court was provided with the more -- I wouldn't
13 say more detailed, but the more detailed statement of
14 financial -- Financial Statement of Debtor that the government
15 had asked from us previously --

16 **THE COURT:** I do have that. I have a three-page --

17 **MR. RAMSEY:** -- that we provided on to Pretrial
18 Services.

19 **THE COURT:** -- three-page document that says,
20 "Balance Sheet, Draft."

21 **MR. RAMSEY:** Okay, I have --

22 **THE COURT:** Yeah.

23 **MR. RAMSEY:** I have copies, but I could pass it up
24 to the Court, just so that the Court has it.

25 **THE COURT:** I would consider that. And that's a

1 document you say the government already has received.

2 **MR. RAMSEY:** The government has received it and we
3 provided this to Pretrial Services as well.

4 **THE COURT:** Thank you. If you don't mind --

5 **MR. RAMSEY:** Thank you.

6 **THE COURT:** And I'll make this part of the
7 confidential pretrial information.

8 **MR. RAMSEY:** We, obviously, disagree with the --
9 about the request to -- or the recommendation to modify the
10 amount of the bond. We think that the bond that the government
11 proposed initially is sufficient. I don't think that there are
12 any facts that have changed.

13 Just so the Court knows, before we came to the Court at
14 the last appearance, we had provided to the government a
15 balance sheet that was more of a summary fashion. It didn't
16 have the full breakout, but we had provided essentially the
17 documents that I gave you just now to the government. So they
18 had that, and that was the greater detail of the balance sheet.

19 And so I just want to point out that the investigation by
20 Pretrial, and the information that we provided, provided no
21 additional information about Mr. Levandowski's financial
22 information than was already present before when the government
23 had indicated that the \$300,000 secured cash posting by
24 Mr. Levandowski was sufficient, and Mr. Levandowski has posted
25 that \$300,000 cash, but we think it's important to look to the

1 actions of both Mr. Levandowski and, quite frankly -- this is
2 an unusual case -- to look at the actions of the government, in
3 determining whether the -- what the least restrictive
4 conditions are that would reasonably assure his appearance.

5 So I think there are two parts to that question:
6 Obviously, first, whether there are conditions which could
7 assure his appearance, and two, what are the least restrictive
8 ones.

9 Mr. Levandowski has done numerous things to demonstrate
10 that he intends to face these charges, and these are things
11 that weren't necessarily captured in the report. So I want to
12 make sure that the Court has this information.

13 First, and I know that the Court mentioned this at the
14 last appearance, the referral obviously was two years ago from
15 Judge Alsup to the United States Attorney's Office for a
16 criminal investigation, and Mr. Levandowski has steadfastly
17 maintained a position to address these issues in court. He
18 intervened in the civil case, as you know, to protect various
19 rights, including his Fifth Amendment privilege, so that he'd
20 be in a position to address these.

21 In the last two years, he has also traveled
22 internationally extensively. He's always returned. He's
23 always had criminal counsel who's been retained, and who has
24 been interacting with the U.S. Attorney's Office through this.

25 Then with respect to the last couple of weeks, he -- the

1 Pretrial Services report indicates that his passports have been
2 turned in, essentially. I think was the language. Both
3 passports have been turned over to U.S. Pretrial Services, but
4 I think it's important to note that Mr. Levandowski six weeks
5 ago, in discussions with the government, voluntarily suggested
6 on his own to give up the passports, and this is where we talk
7 about the start of the government actions which I think show
8 the government's confidence that he would appear for court
9 appearances.

10 When we first contacted the government and asked to give
11 over Mr. Levandowski's passports, the government told us that
12 that was not necessary, and that if we wished, we could just
13 keep the passports in our law firm, which we did.

14 So that was the first step where the government was
15 saying, well -- we were suggesting to do something, take an
16 action to assure his appearance, and the government's response
17 was, "No, we're okay, we think that he's going to show up. You
18 just keep the passport."

19 Then after that, it became -- around the 15th, we let --
20 now know that that was after they obtained an indictment. At
21 the time we didn't know that. They contacted us and said that
22 they wanted to revisit the passport issue and asked whether we
23 would be willing to surrender the passport. Mr. Levandowski
24 immediately agreed to do that, and the FBI came and obtained
25 those. But again, that was an action by Mr. Levandowski,

1 showing that he intended to face these charges in court.

2 Shortly thereafter, Mr. Levandowski observed individuals
3 outside of his business taking pictures of the building who
4 seemed to be doing some surveillance. He believed that those
5 were federal agents. So he didn't retreat to the building, he
6 didn't try to get in his car and take off. He actually did the
7 exact opposite. He went across the street to the agent in the
8 car to introduce himself and to tell them that he was there and
9 to inquire about what was going on.

10 What did the government do? It turns out that there was
11 an active arrest warrant at this time. The government agent --
12 the FBI agent, instead of getting out of the car and saying
13 "Put your hand behind your back" and proceeding to arrest him,
14 if they had been concerned about flight risk, instead, the
15 agent falsely told him that he was there as an insurance
16 investigator taking pictures for something completely
17 unrelated.

18 Mr. Levandowski then said, "Okay, fine," turned around and
19 left, but the government did absolutely nothing to arrest him
20 when there was an active warrant. There was not a concern
21 about him fleeing.

22 After that, Mr. Levandowski still had some concerns,
23 wasn't really sure about whether this was an investigator or
24 not, an insurance investigator. So that's when, after we had
25 discussions, we were able to confirm that it was a FBI agent,

1 and we believe that there likely was an active arrest warrant.

2 And what did Mr. Levandowski decide to do? Live very --
3 first of all, that evening, contact the U.S. Attorney's Office
4 and tell them, "It looks like there's an arrest warrant. It
5 looks like an arrest is imminent. There's no need to surveille
6 or to -- or to arrest me. I have children and so forth.
7 I want to self-surrender," as we've been saying for months.
8 And what happened in response to that? No response.

9 So that evening -- and also, I'd push -- I'd like to pass
10 up to the Court a series of e-mails which document all of this,
11 your Honor.

12 **THE COURT:** Thank you. Received.

13 **MR. RAMSEY:** So what happened that evening was no
14 response. So the first thing the next morning, with no
15 response from the government, was for Mr. Levandowski to go
16 with myself to the federal building in San Francisco, not being
17 absolutely sure whether there was an arrest warrant or not, but
18 just suspecting it, and then knowing that there was some
19 surveillance going on. So Mr. Levandowski came to the
20 courthouse, go into the Marshals Office, essentially at 9:00
21 o'clock before duty calendar, knowing that he'd be brought to
22 Magistrate Judge Laporte.

23 As we entered the courthouse, we e-mailed the U.S.
24 Attorney's Office and indicated, "We now don't have a response
25 to our e-mail from last night. What we are doing is he's going

1 to go self-surrender. We are headed to the Marshals Office."

2 We then got an immediate response, which was essentially,
3 "Hold on, wait, let's talk."

4 So we were literally on the 20th floor outside the
5 entrance to the Marshals Office to self-surrender, and I had a
6 phone call with the U.S. Attorney's Office, who said, "No,
7 don't self-surrender." There was an active warrant for
8 Mr. Levandowski's arrest. He was on the doorstep of the U.S.
9 Marshals Office to self-surrender, and the government said,
10 "Don't do it. Go ahead and wait. Wait to come down to court
11 in San Jose on Tuesday," four days hence.

12 So there was zero concern at that point by the U.S.
13 Attorney's Office that Mr. Levandowski was likely not to
14 appear.

15 So they gave us a date. They then said that this was
16 going to be on your calendar and that we should come on
17 Tuesday, and asked us to provide financial information, which
18 we had been talking about doing previously. So then that,
19 obviously, was accelerated.

20 We provided the financial information, we provided what
21 I provided to you, your Honor, in terms of the Statement of
22 Debtor and a more abbreviated balance sheet, and it was as of
23 six months ago, I believe it was, but it was essentially the
24 same information. It showed a slightly larger net worth,
25 because we then updated it after we came to the court last

1 week, of \$72 million.

2 But even with the \$72 million net worth, what was the
3 government's action, and what did they do in terms of assuring
4 Mr. Levandowski's appearance? They proposed initially a
5 \$300,000 bond, along with various sureties, which we had
6 suggested previously, which was his parents, his father and his
7 stepmother, his good friend Randy Miller and business partner,
8 and then we also suggested his brother, who the government said
9 "No, we don't have to worry about that, we don't need the
10 brother, that's unsecured. Others will be sufficient."

11 So then when we were accepting that, it became, "Oh, wait,
12 we're going to have to think about it for a little bit. We
13 don't have total visibility into his finances," and that they
14 would want an investigation from Pretrial Services. This is
15 despite the fact that they had two years to investigate his
16 finances and showed absolutely nothing that was inconsistent
17 with the finances that we sent. The only thing they said is
18 that he received essentially \$120 million in bonuses and kind
19 of, where did it go, because his net worth is \$72 million, but
20 we all know that there are taxes that are paid on \$120 million,
21 and in this particular situation, it's easy to determine
22 because Google actually withheld taxes, and so it's readily
23 apparent on the W-2.

24 So, and in addition to that, he had a family law
25 settlement with his wife. So \$120 million is -- not his wife,

1 I'm sorry, his ex. And so his -- the \$120 million is not
2 \$120 million. It's \$120 million pretax, and before the child
3 support settlement. So, you know, it was a number much closer
4 to 52, but --

5 **THE COURT:** Yeah, they say a hundred million dollars
6 doesn't go as far as it used to. So I've got some questions
7 for you, from what you've submitted.

8 So one, the date of the long-form Financial Statement of
9 Debtor, when was that as of?

10 **MR. RAMSEY:** Okay, the one I gave to you --

11 **THE COURT:** The long -- kind of the longer form.

12 **MR. RAMSEY:** -- your Honor, that is as of the
13 28th -- I'm sorry, of August.

14 **THE COURT:** Okay, so that's August 28th,
15 August 28th. Thank you, and I don't want to breach some
16 confidentiality, so I'm going to refer to the page
17 number first.

18 **MR. RAMSEY:** Yes.

19 **THE COURT:** There's a section under Liabilities,
20 which is section 6, and part 3 of that is on page 9, refers to
21 judgments or debts, and they're identified as two amounts.

22 **MR. RAMSEY:** Yes.

23 **THE COURT:** Are those confidential, those -- both
24 the existence of those and the amounts, or can I discuss those
25 publicly?

1 (Sotto voce discussion between counsel and another person.)

2 **MR. RAMSEY:** Yes, so there is a confidentiality
3 obligation to the first one, your Honor. That's in
4 arbitration.

5 **THE COURT:** All right.

6 **MS. WAWRZYNIAK:** Although, your Honor, that figure
7 was disclosed in Uber's public filing.

8 **MR. RAMSEY:** I mean, we're happy to discuss --
9 I don't know if the Court wants to do it *in camera*. I'm just
10 trying to be careful not to --

11 **THE COURT:** I'm trying to be careful about it, and
12 I -- but what I want to understand is, this is identified as
13 being preliminary, and I'm trying to understand what that
14 means. Does it mean, is it on appeal? Is it --

15 **MR. RAMSEY:** There was a preliminary award given by
16 the arbitrators. They have not issued a final award yet, and
17 people are waiting for the final award. When they have the
18 final award, then they obviously will go to the Superior Court
19 to get enforcement that, but there just was a preliminary
20 award.

21 I will point out, you know, we presented this information
22 for full disclosure just so the Court had it. If you notice on
23 the balance sheet, it's actually not on the balance sheet --

24 **THE COURT:** That's what I'm trying to understand is,
25 it's in one place and not the other.

1 **MR. RAMSEY:** Right. We haven't -- that's sort of
2 the one thing, and this was sort of an "other," and we just
3 wanted to give full disclosure, but in terms of, you know,
4 discussing his net worth, we have essentially set that aside,
5 but we just wanted to give disclosure that those are out there.
6 I think that was because the government said that they wanted
7 to have greater visibility, and we just wanted to provide, we
8 thought, more information rather than less, but that's not the
9 amount that we're saying --

10 **THE COURT:** Yeah, I just want to understand that
11 both the timing of it being preliminary, like, what was going
12 to make it final, or not, and the second is the contingent
13 liability, just to understand what that is.

14 **MR. RAMSEY:** Right, and the other one is that he's a
15 guarantor for some loans that relate to some real estate
16 developments, and so there's, you know, the potential, but he's
17 a guarantor.

18 **THE COURT:** All right, so that's not a judgment, but
19 it's a contractual guarantee.

20 **MR. RAMSEY:** Correct, your Honor.

21 **THE COURT:** All right, so --

22 **MR. RAMSEY:** And also, with respect to the first
23 one, too, there's a possibility that he'd be indemnified for
24 that, which I think may have been contingent. So it may --
25 I mean, again, it's a contingent thing. It's not -- it's

1 definitely not something that we're relying on in any way to
2 discuss what we think appropriate conditions are.

3 **THE COURT:** All right. So your conclusion is that
4 the conditions of release which I imposed last week are
5 sufficient to vindicate the risk of nonappearance, and you're
6 not recommending any changes at this time.

7 **MR. RAMSEY:** Yes, that's right, your Honor. And
8 also, I do want to emphasize also, and I want to be careful
9 about going into the details in public court, but the lack of
10 liquidity. I mean, I did discuss with the Pretrial Services
11 Office sort of where this sort of amount might come from, and
12 I understand, you know, there's not -- lawyers and legal folks
13 are not always real familiar with financial statements, which
14 I understand, but the one thing that was referenced was sort of
15 the pass-through investments, but that amount, you know,
16 approximately \$11 million, is actually the least liquid thing
17 that is here. That is actually his capital contributions that
18 have been made to a real estate -- to various real estate
19 developments.

20 So that's sort of money that's gone out. He has an
21 investment there, but it's completely illiquid. It's part of a
22 building -- there are buildings that are actually being built.
23 I think there's one that's been completed, but -- and that he
24 doesn't control himself. It's a collection of various entities
25 that control the various real estate entities, and that's the

1 additional attachment that we provided to you.

2 **THE COURT:** All right. Thank you for all of that.

3 Let me get the government's --

4 **MR. RAMSEY:** And could I just --

5 **THE COURT:** Yes.

6 **MR. RAMSEY:** I'm sorry, your Honor. I just do want
7 to add one thing, but what we've looked at, in terms of the
8 most important thing is that we thought of the conditions was,
9 I think what traditionally Pretrial looks at are what are the
10 emotional ties that can be used to ensure that he stays here,
11 and we think, you know, his family, obviously, his parents
12 losing the home that they've lived in for more -- I think
13 upwards of 20 years, you know, we thought that was the most
14 significant thing.

15 His close friend, who he's known since college, that's
16 another tie. And also, we offered his brother, who I know
17 still stands willing to offer an unsecured bond. He doesn't
18 own property.

19 But those are the emotional ties that we think would
20 provide the greatest pressure. But we do think the actions of
21 Levandowski, and quite frankly, the actions of the government,
22 and when we talk about the least restrictive conditions that
23 could reasonably assure his appearance, we think that the
24 conditions that are in place are sufficient.

25 **THE COURT:** And you mentioned his brother. Is he

1 present today?

2 **MR. RAMSEY:** He is present. He came again today,
3 your Honor. And we had suggested \$200,000 unsecured to be the
4 amount.

5 **THE COURT:** For his brother.

6 **MR. RAMSEY:** Yes, and we had suggested that to the
7 government before, and quite frankly, they said that's not
8 necessary, and so -- so that's why that had not been included
9 but, you know, from the time that we have the initial
10 suggestion of what the bond should be till now, I think with
11 the Pretrial Services investigation, there's nothing that has
12 changed. It's the same information.

13 **THE COURT:** Thank you very much.

14 **MS. WAWRZYNIAK:** The government fully supports
15 Pretrial in its recommendation to increase the bond amount to
16 \$8 million. When we were here last week, I told your Honor
17 that the preliminary conditions were just that for the
18 government. We thought that that was an appropriate starting
19 point. When we were negotiating those conditions with the
20 defense, we were very mindful of what Mr. Levandowski was
21 representing as his liquid assets. And so that's the \$300,000
22 figure was drawn from that initial assessment.

23 But we did feel, and as we said last week, that we should
24 have the court's experts, who do this in virtually every felony
25 case, do a deeper dive, a deeper investigation and take a look,

1 and we think that the figure that they came up with, which
2 represents approximately 15 percent of the defendant's net
3 worth, is completely reasonable under the circumstances.

4 **THE COURT:** What facts have you learned since your
5 initial request to the Court of a \$2 million bond, what have
6 you learned between then and now to make you say that
7 \$10 million is the right amount now and \$2 million was right
8 last week?

9 **MS. WAWRZYNIAK:** Well, last week I tried to set down
10 a marker and say that we were focused on two things. One was
11 the point of moral suasion, which entails looking at the
12 defendant's family relationships and ties, those moral ties
13 that bind him to this district.

14 The second thing that we were looking at was sort of, what
15 is the appropriate fraction of net worth that he needs to have
16 personally at stake so that it would hurt too much to walk away
17 from it? And that analysis is the part that is more
18 complicated, and we wanted a more objective set of eyes to go
19 over the financial figures and opine on that, and we feel like
20 that has now happened, and the figure that they've come up with
21 is \$10 million.

22 When we look at the asset information that was provided,
23 it appears to us that there are several different options for
24 how Mr. Levandowski could come up with an additional \$8 million
25 of secured bond in this case and, you know, we don't want to

1 wade into telling him what assets specifically need to be
2 liquidated, what the tax consequences are. It's very
3 complicated. But this is a defendant that is uniquely situated
4 and has the means to engage the experts, do that analysis, and
5 could easily come up with an additional \$8 million.

6 There's this notion floating around that we, the
7 government, somehow were derelict in failing to investigate the
8 current state of his finances. I would just submit to your
9 Honor that our focus in our criminal investigation was whether
10 we could prove the crimes that have been charged. Suggesting
11 that we should somehow be very up-to-date on his finances as of
12 2019 is just not reasonable, because the financial picture is
13 not evidence of the crimes at issue.

14 Moreover, given the defendant's long-standing
15 relationships with various counsel and financial planners,
16 information that the government previously obtained, we don't
17 have confidence that it's current as of today.

18 So given the asset sheet that we see in front of us now,
19 we think that it seems very reasonable for the defendant to
20 think through the different options and come up with an
21 additional \$8 million secured bond.

22 We think that a secured bond is better than an unsecured
23 bond because it is more easily enforceable, obviously, and the
24 assets will be tied up for the pendency of this case.

25 One of the points that I said last week, which I want to

1 reiterate, is just that we're concerned about Mr. Levandowski
2 appearing at each and every stage of this proceeding. We were
3 not concerned that he would not make his initial appearance.

4 That's why we, from the government's perspective, we were
5 engaged in a good-faith negotiation with Mr. Ramsey starting
6 approximately in mid-July of 2019 and, you know, throughout
7 those negotiations, it's true we did believe that he would show
8 up for his initial appearance, but now we're looking forward in
9 this case and we just want to make sure that he has enough at
10 stake so that as the case progresses, he does not flee at some
11 point, and we want to make sure that we essentially just get it
12 right now, while we have time and with the benefit of the input
13 from Pretrial Services.

14 So with that, I will submit.

15 **THE COURT:** All right, thank you.

16 **MR. RAMSEY:** Your Honor, a couple more things.

17 **THE COURT:** Yes.

18 **MR. RAMSEY:** One, I just want to point out, a
19 fraction of the net worth is -- I don't believe that's the
20 standard. I mean, the standard is the least restrictive
21 conditions which can reasonably assure Mr. Levandowski's
22 appearance.

23 And in terms of the liquid assets, because that's the
24 important thing to look at in the balance sheet, when you look
25 at the current assets as of the 28th, in terms of bank

1 accounts, we're looking at just over a million dollars, and
2 then we're talking about securities that aren't tied up in
3 retirement accounts or so forth, there's an extra \$267,000. So
4 you're talking about one-point -- call it one-point -- I want
5 to make sure I get the right number here -- about 1.3-plus.

6 I would just note Mr. Levandowski, of that, already posted
7 \$300,000. He's obviously in the process of retaining counsel,
8 and I fear that there's also an attempt to sort of squeeze all
9 the liquidity out of Mr. Levandowski, which I do believe could
10 implicate his Sixth Amendment rights to a choice of counsel.

11 But that being said, that is the number of liquid assets,
12 and you can see a big chunk of that, of what's even remaining
13 after the \$300,000, is already in various legal retainers.

14 And so the other areas -- and like I said, when I spoke to
15 Pretrial Services this morning and asked, where do you think
16 \$10 million can come up from, you know, the pointing was to the
17 investments that are pass-throughs, and those are capital
18 contributions that have already been made to real estate
19 developments. So there is zero chance of being able to
20 liquidate that in any sort of short period.

21 And I would say, though, Mr. Levandowski's investments
22 have been largely in real estate, which is significant, because
23 although he's not in a position to post them, if there is a
24 judgment that comes forward because a bond is forfeited, the
25 Financial Litigation Unit -- and obviously, your Honor, you're

1 familiar with the entire unit of the Department of Justice
2 that's dedicated to this -- could still enforce a judgment, and
3 there still would be holdings there that relate to real estate.
4 So there still is an opportunity to do that.

5 I do believe that the current conditions are -- will
6 reasonably assure his appearance. There is nothing that has
7 changed. I would say that if the Court felt that there should
8 be an additional amount of bond, it should be unsecured, and
9 Mr. Levandowski stands ready to sign a greater bond that's
10 unsecured. The government would still have the ability to
11 enforce that.

12 And then the other additional condition, if the Court
13 believes it's necessary, would be to have his brother sign on
14 an unsecured -- secured bond as well, but given his limited
15 liquidity, he's not in a situation where he could easily
16 generate \$8 million or \$10 million, as the government says.
17 The balance sheet lays out what his current assets are in
18 accounts that relate to liquid securities and various bank
19 accounts.

20 **THE COURT:** All right, thanks very much. Here's my
21 order on the conditions of release.

22 I am going to add, if he's willing to, Max, the
23 defendant's brother, as an unsecured co-signer, up to the
24 amount of \$200,000, because I do think adding an additional
25 lever to encourage Mr. Levandowski's appearance in court would

1 be appropriate.

2 I'm not going to increase the amount of the bond at this
3 time. We're focused on that issue because that's what's
4 recommended by Pretrial, but there are many other conditions
5 that we've imposed which are calculated to secure
6 Mr. Levandowski's appearances, including the electronic
7 monitoring, the stay away from airports order, the property
8 being posted by family members and a friend and business
9 partner as well, all those combined to set reasonable limits on
10 his behavior to assure that he'll come to court when ordered.

11 Much of the information reported today was known to the
12 Court last week, so it's a bit of a rehash, including the
13 information about Mr. Levandowski's efforts to turn himself in
14 while he had an arrest warrant and the government's reluctance
15 to bring him in at that point in time. That's not a change in
16 circumstances. The new information I have is the additional
17 financial information that came from the defense through
18 Pretrial.

19 And I too am not an accountant, a finance wizard that can
20 parse this level of detail without any further investigation to
21 know that it's off by a factor of five. My assessment, based
22 on what I've heard, through proffer and looking at these
23 records, is that a \$2 million bond is sufficient, and adding
24 Max will help to assure the appearance of Mr. Levandowski.

25 But I just got this 15 minutes before court today, and the

1 government has been evaluating it, and so has Pretrial. So it
2 may be that I could be persuaded with a more careful and even
3 expert guidance that there really are liquid assets here that
4 could be posted as additional security.

5 And we'll come back on October 2nd, and if there's more
6 financial information, both information that the government
7 doesn't have yet and learns, or further argument that -- and
8 really understanding these financials, that I've been snookered
9 into approving the amount, but based on what I have before me,
10 I think that the amount set, in combination with the other
11 conditions, is sufficient. So that's my interim thoughts as to
12 the release conditions.

13 So if we can bring forward Max, I know he's been
14 listening, and get him added to the bond. And do we have a
15 copy -- good morning.

16 **MR. MAXIM LEVANDOWSKI:** Good morning.

17 **THE COURT:** Could you just identify yourself into
18 the microphone, there?

19 **MR. MAXIM LEVANDOWSKI:** Maxim Levandowski.

20 **THE COURT:** Thanks for being here, and you've been
21 here today, and you were here at the court appearance last
22 week, correct?

23 **MR. MAXIM LEVANDOWSKI:** That's correct.

24 **THE COURT:** And were you listening when we reviewed
25 the conditions of release?

1 **MR. MAXIM LEVANDOWSKI:** Yes, your Honor.

2 **THE COURT:** All right, and I'm putting you on the
3 spot here, but it's been proposed by the defense, and I think
4 it will be helpful, to add you to the release order on an
5 unsecured bond up to the amount of \$200,000.

6 And what that means is, it's a way of helping to ensure
7 that your brother will come to court when ordered and will
8 comply with the other conditions of release.

9 If you agree to add yourself as a co-signer, it means the
10 government could seek a judgment against you up to \$200,000 if
11 he does not come back to court when ordered or if he violates
12 one of the conditions of release, and you should only do that
13 if you think he's a good candidate, that he's going to come to
14 court when ordered and he's going to comply, because you'll be
15 putting your own economic liberty at stake by doing so, and
16 that helps to assure the Court that if you're willing to insure
17 him, that makes me more confident that he will do as is; and it
18 puts an extra pressure on him to comply, knowing that you have
19 some economic stake in the game as well.

20 So that's the purpose of it. It does not require you to
21 put any money in the court's coffers now. It's just a promise
22 to pay, and you'll have -- there will be further proceedings if
23 there is a forfeiture, but a promise to pay if there's been a
24 violation.

25 Do you understand all that?

1 **MR. MAXIM LEVANDOWSKI:** I do, your Honor.

2 **THE COURT:** All right, and Mr. Levandowski, the
3 conditions otherwise previously set will be remaining in place.
4 We're just adding your brother as an unsecured creditor in that
5 amount. Do you understand that?

6 **THE DEFENDANT:** I understand, your Honor.

7 **THE COURT:** All right, thank you. And you,
8 Mr. Levandowski, agree to continue to comply with the
9 conditions of release?

10 **THE DEFENDANT:** Of course, your Honor.

11 **THE COURT:** All right, thank you.

12 And Maxim -- sorry to call you by your first name -- do
13 you agree to be a co-signer, up to \$200,000?

14 **MR. MAXIM LEVANDOWSKI:** I do agree.

15 **THE COURT:** All right, then let me have my deputy
16 print out a place for you to sign on to be added to the
17 conditions of release.

18 And I'll say that you're invited to come to all court
19 appearances. You're not -- you're invited to come, you're not
20 required to come to them. Sometimes the conditions will change
21 over the course of the case, and your obligations as a
22 co-signer will be in place unless you get a court order
23 excusing you.

24 So if you changed your mind down the road that you no
25 longer wish to be a co-signer on the bond, this is a contract

1 and you need a court order to excuse you. So if you change
2 your mind, you do need to ask the Court to excuse you if that's
3 what you wish.

4 **MR. MAXIM LEVANDOWSKI:** Okay.

5 **THE COURT:** And we will give you a copy of the
6 conditions of release as well, so you'll have those with you.

7 **MR. MAXIM LEVANDOWSKI:** Thank you.

8 **THE COURT:** All right, Mr. Ramsey is writing, there,
9 and we're getting a signature.

10 Let me check with my deputy to see if we have any more
11 intelligence about Judge Alsup's schedule in San Francisco.

12 **THE CLERK:** Tuesday at 2:00 o'clock, your Honor.
13 I have his schedule --

14 **THE COURT:** So it's the 24th -- well, do the parties
15 wish to put it on the 24th of September before him, or did
16 you...?

17 **MS. WAWRZYNIAK:** That's fine for the government,
18 your Honor.

19 **MR. RAMSEY:** Yes, that's fine, your Honor.

20 **THE COURT:** All right, so we'll set an initial
21 appearance before Judge Alsup in San Francisco Tuesday the
22 24th of September at 2:00 p.m.

23 Let's talk about the Speedy Trial Act. I had mentioned it
24 last week.

25 Mr. Levandowski, you have a right to a speedy trial, which

1 means a trial within 70 days of being charged. That time
2 period can be extended. Let me check with the attorneys to see
3 if they wish to extend the speedy trial clock.

4 **MR. RAMSEY:** Just one second, your Honor.

5 (Pause in proceedings.)

6 Yes, your Honor, we would agree to an exclusion based on
7 continuity of counsel.

8 **THE COURT:** All right, and any -- Ms. Wawrz- -- does
9 the government agree to that?

10 **MS. WAWRZYNIAK:** We agree, your Honor.

11 **THE COURT:** All right. So I will exclude the date
12 from the first appearance here, which -- remind me what date we
13 were here.

14 **MS. WAWRZYNIAK:** We were here on August 27th, your
15 Honor.

16 **THE COURT:** The 27th. So I'll exclude from
17 August 27th through September 24, 2019 for the continuity of
18 counsel. The finding of that is in the interest of justice.
19 And we'll touch base on that again at next court dates.

20 All right, I think that's everything on my agenda, but let
21 me check to see if I missed anything.

22 Anything further from the government?

23 **MS. WAWRZYNIAK:** No, your Honor.

24 **THE COURT:** And from the defense?

25 **MR. RAMSEY:** No, your Honor.

1 **THE COURT:** All right, did we get a signed copy from
2 Maxim? All right, so we've modified the conditions of release,
3 just adding the co-signer. Otherwise, the conditions remain in
4 place, and we can touch base on them again on October 2nd,
5 including the electronic monitoring condition and the amount of
6 bond.

7 All right, thanks very much. Have a good day.

8 **MR. EHRLICH:** Thank you, your Honor.

9 **MR. RAMSEY:** Thank you, your Honor.

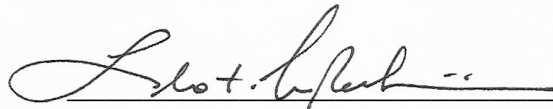
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I, Leo Mankiewicz, certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.

 09/05/2019

Signature of Transcriber

Date